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9
10 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. OA2008-77

13 DONALD FELIPE HARRIS
17050 San Bruno Street, Apt. E11
14 Fountain Valley, CA 92708

OAH No.

A C C U S A T I O N

15 Occupational Therapy Assistant Certificate
16 No. OTA 1772

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

21 1. Heather Martin (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the California Board of Occupational Therapy, Department
23 of Consumer Affairs.

24 2. On or about May 20, 2008, the California Board of Occupational Therapy
25 issued Occupational Therapy Assistant Number OTA 1772 to Donald Felipe Harris
26 (Respondent). The Occupational Therapy Assistant was in full force and effect at all times
27 relevant to the charges brought herein and will expire on May 31, 2011, unless renewed.

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2 (h) Committing any fraudulent, dishonest, or corrupt act that is
3 substantially related to the qualifications, functions, or duties of a licensee.

4 8. Section 2570.29 states:

5 In addition to other acts constituting unprofessional conduct within the
6 meaning of this chapter, it is unprofessional conduct for a person licensed under
7 this chapter to do any of the following:

8 (a) Obtain or possess in violation of law, or prescribe, or, except as
9 directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, to
10 administer to himself or herself, or furnish or administer to another, any
11 controlled substance as defined in Division 10 (commencing with Section 11000)
12 of the Health and Safety Code or any dangerous drug or dangerous device as
13 defined in Section 4022.

14 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
15 request the administrative law judge to direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 FIRST CAUSE FOR DISCIPLINE

19 (Unprofessional Conduct - Possession of a Controlled Substance)

20 10. Respondent's license is subject to discipline for unprofessional conduct
21 under sections 2570.28(a) and 2570.29(a) in that he possessed a controlled substance in violation
22 of the law. The circumstances are that on or about September 16, 2008, in the City of Long
23 Beach, the police were dispatched to the parking lot at Walgreens regarding a male waiting by
24 his vehicle to purchase drugs. When police made contact with Respondent, Respondent stated
25 that he had a problem with drugs and that he had come to the parking lot to buy heroin. Upon a
26 search of Respondent's vehicle, police found a bindle that contained heroin. Respondent was
27 arrested for having a controlled substance in his possession.

28 a. On or about October 17, 2008, in the proceeding entitled *People vs.*
Donald Felipe Harris, Los Angeles County Superior Court, Case Number NA079690,
Respondent pled guilty to possession of a narcotic controlled substance (heroin) in violation of
Health and Safety Code section 11350(a), a felony. The entry of judgment was deferred for 18

1 months pursuant to Penal Code section 1000 and Respondent was ordered to enroll in a diversion
2 program. Upon successful completion of the diversion program, Respondent's guilty plea will
3 be withdrawn and the charges against Respondent will be dismissed.

4 SECOND CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct - Committing a Corrupt Act)

6 11. Respondent's license is subject to discipline for unprofessional conduct
7 under section 2570.28(h) in that he committed a corrupt act that is substantially related to the
8 qualifications, functions, or duties of a licensee when he bought and possessed heroin, a
9 controlled substance, in violation of the law. The circumstances are more specifically set forth
10 in paragraph 10 above, which are realleged and incorporated herein by reference.

11 DISCIPLINE CONSIDERATIONS

12 12. To determine the degree of discipline, if any, to be imposed on
13 Respondent, Complainant alleges that on or about January 16, 2002, in a prior criminal
14 proceeding entitled *People v. Donald Felipe Harris* in Long Beach Superior Court, Case Number
15 1LL05237, Respondent pled nolo contendere to violating Vehicle Code section 23152(A)
16 (driving while under the influence), a misdemeanor. Respondent was sentenced to three years
17 summary probation, ordered to pay fines and restitution, to perform 9 days of community service
18 and to successfully complete a 3-month alcohol and drug education program. The record of the
19 criminal proceeding is incorporated herein as if fully set forth.

20 13. To determine the degree of discipline, if any, to be imposed on
21 Respondent, Complainant alleges that on or about June 7, 1995, in a prior criminal proceeding
22 entitled *People v. Donald Felipe Harris* in the Santa Ana Superior Court, Respondent was
23 convicted for possession of a controlled substance and ordered to attend a diversion program.
24 The record of the criminal proceeding is incorporated as if fully set forth.

25 14. To determine the degree of discipline, if any, to be imposed on
26 Respondent, Complainant alleges that on or about November 17, 1984, in a prior criminal
27 proceeding entitled *People v. Donald Felipe Harris* in the San Bernardino Superior Court,
28 Respondent was convicted for driving under the influence of alcohol and was sentenced to two

1 days in jail, fined and ordered to attend traffic school. The record of the criminal proceeding is
2 incorporated as if fully set forth.

3 PRAYER

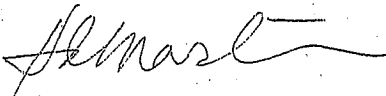
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the California Board of Occupational Therapy issue a
6 decision:

7 A. Revoking or suspending Occupational Therapy Assistant Certificate
8 Number OTA 1772, issued to Donald Felipe Harris;

9 B. Ordering Donald Felipe Harris to pay the California Board of
10 Occupational Therapy the reasonable costs of the investigation and enforcement of this case,
11 pursuant to Business and Professions Code section 125.3; and

12 C. Taking such other and further action as deemed necessary and proper.

13
14 DATED: June 4, 2009

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17 HEATHER MARTIN
18 Executive Officer
19 California Board of Occupational Therapy
20 Department of Consumer Affairs
21 State of California
22 Complainant

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